

4-29-01



27123

PATENT TRADEMARK OFFICE

AFFIX CUSTOMER NO. LABEL ABOVE

Docket No. 2026-4253US7  
Express Mail No. EF099150502US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**UTILITY APPLICATION AND FEE TRANSMITTAL (1.53(b))**

COMMISSIONER FOR PATENTS  
BOX PATENT APPLICATION  
Washington, D.C. 20231

Sir:

Transmitted herewith for filing is the patent application of

Inventor(s) names and addresses:

- (1) Witold Cieplak  
237 Hilltop Drive, Hamilton, Montana 59840, U.S.A.

☐ Additional inventors are listed on a separate sheet

For: PERTUSSIN TOXIN GENE: CLONING AND EXPRESSION

Enclosed Are:

38 page(s) of specification  
1 page(s) of Abstract  
1 page(s) of claims  
5 sheets of ☐ Formal ☒ Informal drawings

2 page(s) of Declaration and Power of Attorney

- ☐ Unsigned  
☐ Newly Executed  
☒ Copy from prior application  
☐ Deletion of inventors including Signed Statement under 37 C.F.R. §1.63(d)(2)

☐ **REQUEST AND CERTIFICATION UNDER 35 U.S.C. §122(b)(2)(B)(i) (form PTO/SB/35)**

As indicated on the attached Request and Certification, Applicant(s) certify that the invention disclosed in the attached application HAS NOT and WILL NOT be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. Applicant(s) therefore request(s) that the attached application NOT be published under 35 U.S.C. §122(b).

☒ **Incorporation by Reference:**

- ☒ The entire disclosure of the prior application, from which a copy of the combined Declaration and Power of Attorney is supplied herein, is considered as being part of the disclosure of the accompanying application and is incorporated herein by reference.

☐ Deletion of Inventors (37 C.F.R. §1.63(d) and §1.33(b))

Signed statement attached deleting inventor(s) named in the prior application serial no. \_\_\_\_\_, filed \_\_\_\_\_.

☐ Microfiche Computer Program (Appendix)

- ☐ page(s) of Sequence Listing  
☐ computer readable disk containing Sequence Listing  
☐ Statement under 37 C.F.R. §1.821(f) that computer and paper copies of the Sequence Listing are the same

☒ Assignment Papers (assignment cover sheet and assignment documents)

- ☐ A check in the amount of \$40.00 for recording the Assignment  
☐ Charge the Assignment Recordation Fee to Deposit Account No. 13-4500  
 Order No. \_\_\_\_\_  
☒ Assignment Papers filed in the parent application Serial No. 07/542,149

☐ Certification of chain of title pursuant to 37 C.F.R. §3.73(b)

☐ Priority is claimed under 35 U.S.C. §119 for:  
 Application No(s). \_\_\_\_\_, filed \_\_\_\_\_, in \_\_\_\_\_ (country).

- ☐ Certified Copy of Priority Document(s) [ \_\_\_\_\_ ]  
☐ filed herewith  
☐ filed in application Serial No. \_\_\_\_\_, filed \_\_\_\_\_.

- ☐ English translation document(s) [ \_\_\_\_\_ ]  
☐ filed herewith  
☐ filed in application Serial No. \_\_\_\_\_, filed \_\_\_\_\_.

☐ Priority is claimed under 35 U.S.C. §119(e) for:  
 Provisional Application Nos. \_\_\_\_\_, filed \_\_\_\_\_.

☒ Information Disclosure Statement

- ☐ Copy of four (4) cited references  
☒ PTO Form-1449  
☒ References cited in parent application Serial No. 08/483,326, filed June 7, 1995.

☐ Related Case Statement under 37 C.F.R. §1.198(a)(2)(iii)

- ☐ A copy of related pending U.S. Application(s) Serial No(s): \_\_\_\_\_, filed \_\_\_\_\_, respectively, is attached hereto.  
☐ A copy of related pending U.S. Application(s) entitled, \_\_\_\_\_, filed \_\_\_\_\_ to inventor(s), respectively, is attached hereto.  
☐ A copy of each related application(s) was submitted in parent application serial no. \_\_\_\_\_, filed \_\_\_\_\_.

☒ Preliminary Amendment

☒ Return receipt postcard (MPEP 503)

- ☒ This is a ☒ continuation ☐ divisional ☐ continuation-in-part of prior application serial no. 09/128,911, filed August 4, 1998, to which priority under 35 U.S.C. §120 is claimed.
- ☐ Cancel in this application original claims \_\_\_\_\_ of the parent application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
- ☐ A Preliminary Amendment is enclosed. (Claims added by this Amendment have been properly numbered consecutively beginning with the number following the highest numbered original claim in the prior application).
- ☒ The status of the parent application is as follows:
- ☐ A Petition for Extension of Time and a Fee therefor has been or is being filed in the parent application to extend the term for action in the parent application until \_\_\_\_\_.
- ☒ A copy of the Petition for Extension of Time in the co-pending parent application is attached.
- ☐ No Petition for Extension of Time and Fee therefor are necessary in the co-pending parent application.
- ☐ Please abandon the parent application at a time while the parent application is pending or at a time when the petition for extension of time in that application is granted and while this application is pending has been granted a filing date, so as to make this application co-pending.
- ☐ Transfer the drawing(s) from the parent application to this application
- ☐ Amend the specification by inserting before the first line the sentence:  
This is a divisional application of co-pending application Serial No. \_\_\_\_\_, filed \_\_\_\_\_.

I. CALCULATION OF APPLICATION FEE				
	Number Filed	Number Extra	Rate	Basic Fee \$710.00/355.00
Total Claims	1 - 20 =	0x	\$18.00/\$9.00	\$ 0
Independent Claims	1 - 3 =	0x	\$80.00/\$40.00	\$ 0
<input type="checkbox"/> Multiple Dependent Claims		If marked, add fee of \$270.00 (\$135.00)		\$
TOTAL:				\$ 710.00

- ☐ Small entity status is hereby claimed. Reduced fees under 37 C.F.R. §1.9 (f) paid herewith \$\_\_\_\_\_.
- ☐ A check in the amount of \$ \_\_\_\_\_ in payment of the application filing fees is attached.
- ☐ Charge fee to Deposit Account No. 13-4500 Order No. \_\_\_\_\_. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

☐ The Commissioner is hereby authorized to charge any additional fees which may be required for filing this application pursuant to 37 CFR §1.16, including all extension of time fees pursuant to 37 C.F.R. § 1.17 for maintaining copendency with the parent application, or credit any overpayment to Deposit Account No. 13-4500, Order No. 2026-4253US7. A  
DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: January 26, 2001

By: 

Dorothy R. Auth  
Registration No. 36,434  
(212) 415-8668 Telephone  
(212) 751-6849 Facsimile

ADDRESS:

MORGAN & FINNEGAN, L.L.P.  
345 Park Avenue  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Witold Cieplak

CONTINUATION OF

Serial No. : 09/128,911

Group Art Unit: TBA

Filed : January 26, 2001

Examiner: TBA

For : PERTUSSIN TOXIN GENE: CLONING AND EXPRESSION

EXPRESS MAIL CERTIFICATE

Express Mail Label No. EF099150502US

Date of Deposit January 26, 2001

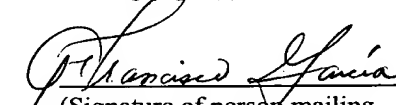
I hereby certify that the following attached paper(s) or fee

1. Utility Application and Fee Transmittal (1.53(b)) (4 pages);
2. Continuation Application (38 pages of Specifications, 1 page of Abstract, 1 page of Claims, 5 pages of Drawings);
3. Preliminary Amendment (3 pages);
4. Copy of Petition for Extension of Time (2 pages);
5. Copy of Declaration and Power of Attorney (2 pages);
6. Copy of Assignment papers (1 pages);
7. Copy of Information Disclosure Statement (2 pages) and Form PTO 1449 (1 page); and
8. Return postcard.

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to the Commissioner For Patents, BOX PATENT APPLICATION, Washington, D.C. 20231.

FRANCISCO GARCIA

(Typed or printed name of person  
mailing paper(s) and/or fee)

  
(Signature of person mailing  
paper(s) and/or fee)

CORRESPONDENCE ADDRESS:  
MORGAN & FINNEGAN, L.L.P.  
345 Park Avenue  
New York, New York 10154  
(212) 758-4800  
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FORM: EXP-MAIL.NY  
Rev. 05/27/98

Express Mail Label No. EF099150502US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Witold Cieplak

Serial No. : 09/128,911

Group Art Unit: 1653

Filed : August 4, 1998

Examiner: Bugaisky, G.

For : PERTUSSIN TOXIN GENE: CLONING AND EXPRESSION



COMMISSIONER FOR PATENTS  
Washington, D.C. 20231  
BOX AF

**PETITION AND FEE FOR EXTENSION OF TIME (37 C.F.R. §1.36(a))**

Sir:

1. This is a petition for an extension of time for filing a Utility Application and Fee Transmittal (1.53(b)).

2. The communication in connection with the matter for which this extension is requested

☐ is filed herewith.

☒ is being filed on January 26, 2001.

3. ☐ Applicant(s) is/are entitled to Small Entity Status. ☐ Small Entity Statement is attached.  
☐ Statement has already been filed.

4.	<u>Total Months Requested</u>	<u>Fee for Other than Small Entity</u>	<u>Fee for Small Entity</u>
a. <input type="checkbox"/>	one month	\$110.00	\$55.00
b. <input type="checkbox"/>	two months	\$390.00	\$195.00
c. <input checked="" type="checkbox"/>	three months	\$890.00	\$445.00
d. <input type="checkbox"/>	four months	\$1,390.00	\$695.00
e. <input type="checkbox"/>	five months	\$1,890.00	\$945.00
f. <input type="checkbox"/>	An extension for _____ months has already been secured for filing the above-identified communication and the fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested. The fee for this extension (\$ _____), minus the fee previously paid (\$ _____) equals \$ _____ (total fee due).		

5. ☐ A check in the amount of \_\_\_\_\_ to cover the extension fee is attached.

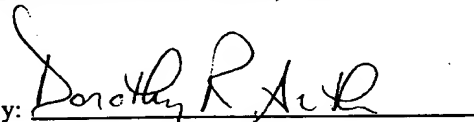
6. ☒ Charge fee to Deposit Account No. 13-4500. Order No. 2026-4253US6. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

7. [X] The Assistant Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment to Deposit Account No. 13-4500. Order No. 2026-4253US6. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

By:

  
Dorothy R. Auth  
Registration No. 36,434

Dated: January 26, 2001

CORRESPONDENCE ADDRESS:

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FORM: PET-XOT.NY  
Rev. 11/13/98